

# MASTER BILL TO END PORTAL SUITS FILED

## Indicated Republican Choice Offered in House, Shaped to Win High Court Acceptance

By WILLIAM S. WHITE  
Special to THE NEW YORK TIMES.

WASHINGTON, Jan. 7—The

master bill to be used by House Republicans, with much Democratic support, in the effort to end portal-to-portal back pay suits was introduced today with powerful assured backing.

Its sponsor, Representative John W. Gwynne, of Iowa, is a member of the judiciary committee, which

will have jurisdiction over the legislation, and he consulted in advance with Earl C. Michener of Michigan, committee chairman. It was indicated that this was to be labeled "the" measure, among

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irrespective of the new opportunity to demand back pay granted by a Supreme Court decision that held an employee entitled to pay for all the time he was "necessarily required to be on an employer's premises."

2. Where an employee had acted, in paying his men, according to the official interpretations of the Fair Labor Standards Act that were prevailing at the time that much overtime, as later defined, was being run up.

3. Where an employer in determining what part of his workers' time was to be paid for had acted in the prevailing customs of his industry.

Representative Gwynne and his associates believed that this measure would not involve a collision with the Constitution, which had been foreseen by some lawyers as likely in other proposals to act retroactively against back pay suits.

In this approach, Mr. Gwynne told reporters, the effort was more "retrospective" than retroactive and could be legally based on precedents laid down in Supreme Court decisions.

One of these was the celebrated "gold clause" case of the early Roosevelt Administration, in which the court upheld the devaluation of the dollar, in the process rejecting the demands of private bondholders to be repaid in gold-based bonds bought long before.

Others, he declared, could be found in many acts regulating interstate commerce where Congressional decisions, even though "retrospective," were superior to any private contract.

"Congress has the power," he said in elaboration on the House floor, "to regulate the jurisdiction of the courts. No person has a vested property right in a Federal statute or in any right of action or remedy under such statute.

"Just as Congress may repeat any law, it may modify the remedies provided and direct the courts to apply them under the conditions laid down by Congress. It lies within its power to determine whether, in the application of the penalties or liabilities provided by statute, decisions of the

# Portal Pay Suits by Republicans

Justice should be given retroactive merely prospective effect."

While leading House Republicans are thus centering on their legal strategy, quick Senate action is foreshadowed.

Senator Robert A. Taft of Ohio, chairman of the Senate Labor Committee, disclosed that, granting early solution of minor jurisdictional issues, that group probably would begin hearings next week on curative legislation. He added that this issue in any case would be first on the committee's agenda.

The Gwynne bill, apart from sharply limiting the jurisdiction of the courts, would set up these major restrictions:

Suits for back pay would be invalid in any case if not made within a year from the date when overtime was claimed to have occurred.

Fresh suits would have to be filed within ninety days of the enactment of the proposed law.

Men or unions demanding back pay would bear the burden of proof and an employer could not lose a suit by failure to produce records so long as these had not been required by published regulations.

When suits were won, attorney's fees could not be assessed against employers at more than 5 per cent of the judgment and in no circumstances at more than \$5,000.

Mr. Gwynne said that the Supreme Court's decision had the effect of approving claims for back pay even when these were based on time not considered to be properly overtime in employer-employee contracts then in effect.

Too, he declared the court had indicated that an employee could not settle claims on compromise figures with assurance that such a settlement would be binding.

On this point, the bill specified that such compromises would be final in the absence of fraud or duress.

"Certain laws are being interpreted and enforced without regard to long standing practices and customs in the particular industry, heretofore considered to be a part of every agreement," Mr. Gwynne declared.

"In some cases this is being done in spite of specific agreement to the contrary and as a result the entire philosophy of collective bargaining is being jeopardized.

"Definitions of work time, left by Congress largely to employer and employee, are being drawn within the orbit or administrative regulation and court decision."

The Government, too, he noted, has a stake in these suits, adding that some of the judgments obtained would be proper charges against the Treasury that might add billions of dollars to the cost of the war.

**Suits Mount to \$3,360,237,690**  
Portal-to-portal wage suits—now nearing the \$3,500,000 mark—mounted slowly but steadily yesterday toward the industry-predicted \$5,000,000,000 peak, The Associated Press reported.

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# As Pegler Sees It

## Discusses Aspects Of Fay's Jersey Trial

By WESTBROOK PEGLER

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AFTER A DIFFICULT INQUIRY which lasted about three years, special agents of the Treasury were able to present information to the Federal Grand Jury in Newark, N. J., indicating that Joe Fay, the plug-ugly gangster boss of the Operating Engineers' Union of the American Federation of Labor, had concealed income of \$197,000 in 1940, 1941 and 1942.



WESTBROOK PEGLER

On Dec. 10, the Grand Jury indicted Fay, charging that he had evaded taxes of \$137,548.

On Dec. 18, the Associated Press reported from Newark that the case was assigned to Judge Thomas F. Meaney and that Edgar H. Rossbach, the U. S. District Attorney, had announced that the trial was set to begin about Jan. 6.

Fay, though a rough, brutal hoodlum and a drunkard, is also one of the most audacious and resourceful political racketeers in the New Deal-underworld axis.

He is a henchman of Frank Hague, the Jersey boss, and an intimate social and political companion of most of the influential judges, public prosecutors

and other officials of the Hague machine in Newark and Jersey City.

He has lived in Newark for years and is a member of the biggest social club of Hague politicians. His influence is so strong that the average harmless citizen, drawn for jury duty, might be put in fear of ruinous reprisals of one kind or another, including physical violence.

JUDGE MEANEY, NAMED TO HOLD THE TRIAL, is an old, intimate friend and political protege of Fay's friend, Hague. He owes his appointment to Hague, an appointment which aroused strong objections in the U. S. Senate before he could be confirmed.

Altogether, the objections to Meaney's confirmation were such as to justify the most attentive scrutiny of his conduct of the Fay trial if he should fail to disqualify himself. Certainly Meaney could not impair public confidence in the honesty of the trial and the court if he should decide to let the Fay case go to some other judge, preferably a man from some other State.

Mr. Rossbach, the District Attorney, also is a member of the Hague political group. It will be up to him to present the case against Fay and, of course, to take any precautions that he believes necessary and wise to prevent tampering and to exclude from the box jurors who have relations with Fay or might be sensitive to temptation or pressure.

The possible ramifications of influence are infinite. A juror might be in debt to a bank controlled by the machine. He might have a relative in the employ of Fay or the machine. He might be a contractor or closely related to a contractor who could be ruined by union trouble from Fay.

Such are possibilities that a prosecutor is supposed to explore carefully in selecting a jury.

In this case, the judge, the prosecutor and the defendant all are members of a notorious political organization. The defendant is a desperate, ruthless and powerful politician who has been fighting for three years to keep out of prison.

And he is known to have the sympathy of a circle of cynical and powerful old gang politicians who say they feel he has been punished enough by his worries and the expense of his previous trial in New York and the appeals.

IN NEW YORK COUNTY, FAY was convicted in the State court of extortion and conspiracy through a shakedown of contractors who built the Delaware Aqueduct. This was a \$300,000,000 job financed largely by Federal money.